



Susan Mosier, MD, Secretary

Department of Health and Environment

Sam Brownback, Governor

August 25, 2016

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Liz Hagenmaier
Remedial Project Manager
Superfund Division - Special Emphasis Branch
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, KS 66219

SUBJECT: *Final Feasibility Study, Cherokee County Operable Unit 8 Railroads Site, Cherokee County Kansas and Draft Proposed Plan, Record of Decision, Cherokee County Site, Operable Unit 08 – Railroads, Cherokee County, Kansas*

Dear Ms. Hagenmaier:

The Kansas Department of Health and Environment (KDHE), Bureau of Environmental Remediation has reviewed the referenced subject documents. KDHE includes the following comments for your consideration.

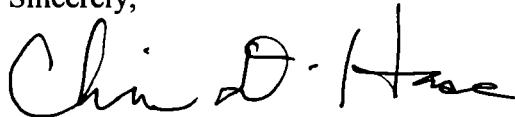
1. KDHE received the draft proposed plan (PP) before the final feasibility study (FS). KDHE received the final FS on August 1, 2016, without opportunity to review and comment on a revised version. Substantive changes to the proposed cleanup levels occurred between the initial draft FS KDHE reviewed and commented to EPA on June 20, 2016, and the draft PP received by KDHE on July 16, 2016.
2. KDHE's draft FS comments were based on understanding cleanup levels proposed in this remedial action are the PRG's used in all phases in operable units (OU) 3, 4, and 6. PP cleanup levels are based on the ecological risk (eco-risk) numbers, though both documents seemingly contain contradictory document references to both sets of cleanup levels. For example the PP's *Ecological Risk* section states the eco-risk numbers as cleanup levels are protective of the terrestrial site systems; then, the first paragraph of *Alternative 3 – Source Removal with Consolidation...* states that all ballast and contaminated soil with concentrations exceeding the PRGs will be excavated, backfilled, and graded. Alternatives 1 and 2 have similar discrepancies.
3. Section *VIII. Preferred Alternative* states that railroad ballast visibly identified as chat will be removed and underlying soil and material removed until the eco-risk cleanup levels, based on XRF screening, are achieved. However, during the August 12, 2016 EPA and KDHE phone conference EPA stated that only chat exceeding the eco-risk cleanup levels would be removed, and chat with lead and zinc concentrations less than those levels would remain. Based on this conflicting information KDHE does not have a clear understanding concerning the locations and extent of removing contaminated ballast chat. KDHE recommends EPA include a PP map depicting ballast removal location segments comprising the proposed chat quantities to be removed and those where EPA anticipates chat will remain.
4. KDHE is concerned that completing the proposed PP remedial action involves leaving sporadic remnants of exposed, contaminated ballast chat resulting from only removing chat exceeding the eco-risk cleanup levels versus removing all ballast visibly identified as chat discussed in the draft FS. This uncovered contaminated chat is likely to invite increased human activity thus affecting potential human health exposure scenarios especially near urban areas and rural residences, and likely resulting in the

chat being removed and deposited in other areas including roads, driveways, and other areas and in doing so contaminating new areas and creating new exposure scenarios. Leaving exposed contaminated chat could affect ecological receptor exposure scenarios thereby causing an attractive nuisance.

5. KDHE cannot feasibly implement state-equivalent institutional controls (IC) and provide long-term operation and maintenance (O&M) at numerous sporadic remnant areas containing exposed, contaminated chat.
6. During EPA's August 15, 2016, OU-8 Public Availability Session in Baxter Springs EPA indicated that regional plans to convert historic rail beds to the national Rails to Trails program largely prompted EPA to begin investigating the rail lines comprising OU-8, and the PP indicates that the potential change in land use affects human health risk and eco-risk exposure scenarios. As KDHE understands the Rails to Trails program and its auxiliary experience with a project near Andover, KS is that project conformance requires any contaminated material encountered to be removed or otherwise encapsulated and restricted with IC.
7. As mentioned in its draft FS response KDHE's consideration of remedial alternatives weighs heavily the practicability of placing and maintaining state-equivalent ICs and the state's foreseen long-term O&M responsibility. KDHE anticipates successfully implementing IC agreements on one or a few consolidation areas currently planned in OUs 3 and 4 versus numerous sporadic remnant or miles of linear consolidation areas proposed under PP Alternatives 2 and 4. Fewer consolidation areas also would reduce estimated long-term O&M and related costs.
8. KDHE supports PP *Alternative 3* using the PRGs as cleanup levels. Using the PRGs as cleanup levels would eliminate all potential negative effects of leaving sporadic remnants of uncovered, contaminated ballast chat described in comment 4 above and preclude the infeasibility of implementing ICs at numerous sporadic remnant or miles of linear consolidation areas.

Thank you for providing KDHE the opportunity to review and comment. If you have any questions, please contact me using the information in the top right letterhead.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris D. Hase". The signature is fluid and cursive, with the first name "Chris" being the most prominent part.

Chris D. Hase
Project Manager

cc: File: Cherokee County → C3-011-73152 (1)